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**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DENNIS WORSHAM

Plaintiff,

v

JOHN POLSON & G.B. TRANSPORT, LTD)

Defendant,

No.: 1:08-CV-00062

Honorable William J. Hibbler

MOTION FOR REMAND

NOW COMES the Plaintiff, DENNIS WORSHAM, by and through his attorneys, FOLEY & MAJESKE, and move this Honorable Court to remand this matter to the Circuit Court of Cook County. In support of such motion, Plaintiff states:

1. This matter arises out of a motor vehicle collision which occurred on January 27, 2006, on I-294 northbound in Lyons Township, Cook County, IL.
2. That the Plaintiff, Dennis Worsham, was stopped in traffic when he was struck in the rear by a truck operated by the defendant, John A. Polson, and owned by the Defendant, GB Transport.
3. That as a result of the collision, Plaintiff suffered injuries to his back and neck.
4. That the Plaintiff has retained the law firm of Foley & Majeske to represent him.
5. That the Plaintiff has caused a lawsuit to be filed in the Circuit Court of Cook County, case 07 L 12341 entitled Denis Worsham v. John Polson & G.B. Transport, Ltd.
6. That the Defendant removed this matter to this Honorable Court asserting in their removal petition that the amount in controversy exceeds \$75,000.00.

7. This assertion, notwithstanding the Defendant's insurance carrier, Carolina Casualty, after reviewing submitted medical records, has tendered no written settlement offer to Plaintiff, evidencing their belief that the matter in controversy does not exceed the jurisdictional limit of \$75,000.00 (See attached Circuit Court Complaint at Law, seeking damages only in excess of \$50,000.00.
8. The removing party has the burden to establish any disputed aspect of diversity by offering evidence which proves to a reasonable probability that jurisdiction exists. *Smith V. American General Life and Accident Insurance Co.* 337 F. 3d 88 (2003) Defendant does not offer any evidence of the amount in controversy exceeds \$75,000.00, and thus fails to meet this burden.
9. Previously, an action entitled *Stanley Fowler v. G.B. Transport Ltd. & John Polson*, bearing Cook County Court number 07 L 7171, was filed resulting from this same occurrence of January 27, 2006.
10. The same defense counsel as in this case filed a notice of removal to Federal Court on August 31, 2007, bearing the court number 07 C 4884 before the Honorable Samuel Yejhian.
11. On September 24, 2007, that case was remanded from the Federal Court back to the State Court, where it now remains pending as 07 L 7171.
12. No oral discovery has yet taken place on case number 07 L 7171 entitled *Stanley S. Fowler v. G.B. Transport, Ltd. & John Polson*.

13. For purposes of judicial and legal economy, this case should be remanded to the Circuit Court of Cook County for purpose of consolidation with 07 L 7171 so that there is no duplication of oral discovery.

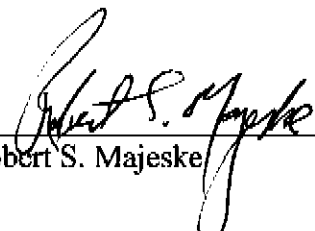
14. Attached hereto is a copy of Exhibit A, a subpoena of a deposition of Dennis Worsham in the Circuit Court of Cook County in the Stanley S. Fowler case 07 L 7171. The subpoena was issued November 16, 2007 and the deposition was continued.

WHEREFORE Plaintiff, Dennis Worsham, moves this Honorable Court to remand this matter to the Circuit Court of Cook County for the purposes of consolidation with case number 07 L 7171.



FOR THE FIRM

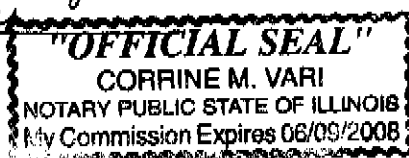
I, Robert S. Majeske, being duly sworn on oath states and deposes that I have read the Motion to Consolidate and the facts therein are true and correct to the best of my knowledge and belief.



Robert S. Majeske

SUBSCRIBED AND SWORN TO BEFORE
ME THIS 1st DAY OF February 2008.

Corrine M. Vari
NOTARY PUBLIC



FOLEY & MAJESKE
20 N. CLARK, 36TH FLOOR
CHICAGO, IL 60602
(312)782-5841
ATTORNEY NO.: 23402

STATE OF ILLINOIS)
)
COUNTY OF COOK)

IN THE CIRCUIT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

DENNIS WORSHAM,)
Plaintiff,) No.:
)
Vs.)
)
JOHN A POLSON and)
GB TRANSPORT, LTD.)
Defendants.)

FILED
JAN 11 2006
CLERK OF COURT
JAN 11 2006
JAN 11 2006

COMPLAINT AT LAW

NOW COMES the Plaintiff, DENNIS WORSHAM, by and through his attorney, FOLEY & MAJESKE, and complaining of the Defendants, JOHN A. POLSON and GB TRANSPORT, LTD., state as follows:

1. On January 1, 2006, the Plaintiff, DENNIS WORSHAM, was operating a motor vehicle northbound on I-294 at or near milepost 31.5, in Lyons, County of Cook, State of Illinois.
2. On January 1, 2006, the Defendant, JOHN A. POLSON, was operating a motor vehicle in a northbound direction on I-294 at or near milepost 31.5, in Lyons, County of Cook, State of Illinois.
3. The motor vehicle operated by the Defendant, JOHN A. POLSON, was owned by the Defendant, GB TRANSPORT, LTD., and being operated for its benefit.
4. It was then and there the duty of the Defendants to exercise reasonable care in the operation of said motor vehicle.

5. Notwithstanding their duty in the premises, the Defendants, JOHN A. POLSON and GB TRANSPORT, LTD., were guilty of one or more of the following negligent acts or omissions:

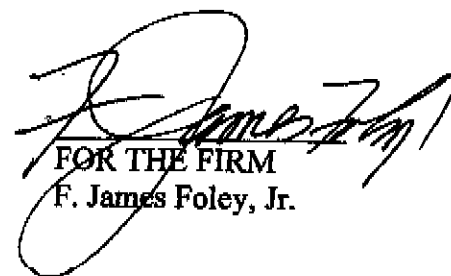
- a) Failed to reduce said motor vehicle's speed to avoid colliding with the Plaintiff's vehicle;
- b) Followed the Plaintiff's vehicle too closely;
- c) Failed to keep said vehicle under control;
- d) Failed to keep a proper look-out for other vehicles on the roadway;

6. As a direct and proximate result of one or more of the foregoing, the motor vehicle operated by the Defendant struck the motor vehicle operated by the Plaintiff.

7. As a direct result thereof, the Plaintiff was injured; lost wages from his employment; has incurred various hospital and doctor bills; and the Plaintiff vehicle was damaged and reduced in use and value.

WHEREFORE the Plaintiff, DENNIS WORSHAM, prays judgement against the Defendant, JOHN A. POLSON and GB TRANSPORT, LTD., in an amount in excess of \$50,000.00 ,plus costs.

FOLEY & MAJESKE
20 N. CLARK 36TH FLOOR
CHICAGO, IL 60602
(312) 782-5841
ATTY. NO.:23402


FOR THE FIRM
F. James Foley, Jr.

2181 - Served
2281 - Not Served
2381 - Served By Mail
Subpoena - for Deposition

(Rev. 12/11/01) CCG 0014

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

STANLEY S. FOWLER,

v.

No. 07 L 7171

GB TRANSPORT, LTD., et al.

SUBPOENA FOR DEPOSITION

To: Dennis Worsham
834 White Oak Ln.
University Park, IL 60466

YOU ARE COMMANDED to appear to give your deposition before a Notary Public at:

150 S. Wacker Drive, Room 2400, Chicago, Illinois 60606
(address) (city) (zip)

on December 5, 2007, at 2:00 p.m.

YOU ARE COMMANDED ALSO to bring the following:

Cont'd 4 A off

in your possession or control.

YOUR FAILURE TO APPEAR IN RESPONSE TO THIS SUBPOENA WILL SUBJECT YOU TO PUNISHMENT FOR CONTEMPT OF THIS COURT.

WITNESS November 16, 2007

Dorothy Brown
Clerk of Court

Atty. No. 35613

Name: Steven B. Novy - Chilton Yambert Porter & Young LLP

Attorney for: Defendants

Address: 325 Washington St., Suite 200

City/State/Zip: Waukegan, IL 60085

Telephone: (847) 625-8200

mailing certified mail

I served this subpoena by ~~handing~~ a copy to Dennis Worsham

on November 16, 2007

I paid the witness \$ 71.86 for witness and mileage fees.

Signed and sworn to before me on this 16th day of November, 2007



Notary Public

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

EXHIBIT "A"

Nov 27 07 11:01a

Dennis Worsham

708-235-0322

p. 1

2181 - Served
2281 - Not Served
2381 - Served By Mail
Subpoena - for Deposition

(Rev. 12/11/01) CCG 0014

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

STANLEY S. FOWLER,

v.

GB TRANSPORT, LTD., et al.No. 07 L 7171

SUBPOENA FOR DEPOSITION

To: Dennis Worsham834 White Oak Ln.University Park, IL 60466

to be examined and sworn to before a Notary Public at: